

function or school-sponsored activity regardless of its location. The intervention may occur in the absence of an employee of an accredited public school district, accredited nonpublic school, or area education agency, or at the request of such an employee, utilizing the degree and force of intervention reasonably necessary to restore order and protect the safety of the individuals involved in the altercation and others in the vicinity of the altercation. However, a person who intervenes in the absence of an employee of an accredited public school district, accredited nonpublic school, or area education agency shall report the intervention and all relevant information regarding the situation as soon as reasonably possible to such an employee.

3. An employee of an accredited public school district, accredited nonpublic school, or area education agency who intervenes in a fight or physical struggle pursuant to subsection 1 shall be awarded reasonable monetary damages against a party bringing a civil action alleging a violation of this section, if it is determined in the action that the employee has been wrongfully accused. A nonemployee of an accredited public school district, accredited nonpublic school, or area education agency who intervenes in a fight or physical struggle pursuant to subsection 2 shall be limited to the recovery of reasonable attorney fees and court costs, if it is determined in a civil action alleging a violation of this section that the nonemployee has been wrongfully accused.

Approved May 14, 1998

CHAPTER 1196

HEALTHY AND WELL KIDS IN IOWA PROGRAM

H.F. 2517

AN ACT establishing a healthy and well kids in Iowa (HAWK-I) program to provide health insurance to eligible children, providing for a repeal, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 432.13 PREMIUM TAX EXEMPTION — HAWK-I PROGRAM.

Premiums collected by participating insurers under chapter 514I, are exempt from premium tax.

Sec. 2. NEW SECTION. 514I.1 INTENT OF THE GENERAL ASSEMBLY.

1. It is the intent of the general assembly to provide health care coverage to eligible children that improves access to preventive, diagnostic, and treatment health services which result in improved health status using in part resources made available from the passage of Title XXI of the federal Social Security Act.

2. It is the intent of the general assembly that the program be implemented and administered in compliance with Title XXI of the federal Social Security Act. If, as a condition of receiving federal funds for the program, federal law requires implementation and administration of the program in a manner not provided in this chapter, during a period when the general assembly is not in session, the department, with the approval of the HAWK-I board, shall proceed to implement and administer those provisions, subject to review by the next regular session of the general assembly.

3. It is the intent of the general assembly, recognizing the importance of outreach to the successful utilization of the program by eligible children, that within the limitations of

funding allowed for outreach and administration expenses, the maximum amount possible be used for outreach.

4. It is the intent of the general assembly that the HAWK-I program be an integral part of the continuum of health insurance coverage and that the program be developed and implemented in such a manner as to facilitate movement of families between health insurance providers and to facilitate the transition of families to private sector health insurance coverage.

Sec. 3. NEW SECTION. 514I.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administrative contractor" means the person with whom the department enters a contract to administer the HAWK-I program under this chapter.

2. "Benchmark benefit package" means any of the following:

a. The standard blue cross/blue shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. § 8903(1).

b. A health benefits coverage plan that is offered and generally available to state employees in this state.

c. The plan of a health maintenance organization as defined in 42 U.S.C. § 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

3. "Cost sharing" means the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and section 514I.9.

4. "Department" means the department of human services.

5. "Director" means the director of human services.

6. "Eligible child" means an individual who meets the criteria for participation in the program under section 514I.7.

7. "HAWK-I board" or "board" means the entity which adopts rules and establishes policy for, and directs the department regarding, the HAWK-I program.

8. "HAWK-I program" or "program" means the healthy and well kids in Iowa program created in this chapter to provide health insurance coverage to eligible children.

9. "Health insurance coverage" means health insurance coverage as defined in 42 U.S.C. § 300gg(91).

10. "Participating insurer" means any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

11. "Qualified child health plan" or "plan" means health insurance coverage provided by a participating insurer under this chapter.

Sec. 4. NEW SECTION. 514I.3 HAWK-I PROGRAM — ESTABLISHED.

1. The HAWK-I program, a statewide program designed to improve the health of children and to provide health insurance coverage to eligible children on a regional basis which complies with Title XXI of the federal Social Security Act, is established and shall be implemented January 1, 1999.

2. Health insurance coverage under the program shall be provided by participating insurers and through qualified child health plans.

3. The department of human services is designated to receive the state and federal funds appropriated or provided for the program, and to submit and maintain the state plan for the program, which is approved by the health care financing administration of the United States department of health and human services.

4. Nothing in this chapter shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for participation in the program based upon eligibility consistent with the requirements of this chapter. Any state obligation to provide services pursuant to this chapter is limited to the extent of the funds appropriated or provided for this chapter.

5. Participating insurers under this chapter are not subject to the requirements of chapters 513B and 513C.

Sec. 5. NEW SECTION. 514I.3A DIRECTOR AND DEPARTMENT — DUTIES — POWERS.

1. The director, with the approval of the HAWK-I board, shall implement this chapter. The director shall do all of the following:

a. At least every six months, evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing the program, and compare the probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period. The director shall report the findings of the evaluation to the board and shall annually report findings to the governor and the general assembly by January 1.

b. Establish premiums to be paid to participating insurers for provision of health insurance coverage.

c. Contract with participating insurers to provide health insurance coverage under this chapter.

d. Recommend to the board proposed rules necessary to implement the program.

e. Recommend to the board individuals to serve as members of the clinical advisory committee.

2. The director, with the concurrence of the board, shall enter into a contract with an administrative contractor. Such contract shall be entered into in accordance with the criteria established by the board.

3. The department may enter into contracts with other persons whereby the other person provides some or all of the functions, pursuant to rules adopted by the board, which are required of the director or the department under this section. All contracts entered into pursuant to this section shall be made available to the public.

4. The department shall do or shall provide for all of the following:

a. Develop a program application form not to exceed two pages in length, which is consistent with the rules of the board, which is easy to understand, complete, and concise, and which, to the greatest extent possible, coordinates with the medical assistance program.

b. Establish the family cost sharing amount, based on a sliding fee scale, if established by the board.

c. Perform other duties as determined by the department with the approval of the board.

Sec. 6. NEW SECTION. 514I.4 HAWK-I BOARD.

1. A HAWK-I board for the HAWK-I program is established. The board shall meet not less than ten times annually, for the purposes of establishing policy for, directing the department on, and adopting rules for the program. The board shall consist of seven members, including, all of the following:

a. The commissioner of insurance, or the commissioner's designee.

b. The director of the department of education, or the director's designee.

c. The director of public health, or the director's designee.

d. Four public members appointed by the governor and subject to confirmation by the senate. The public members shall be members of the general public who have experience, knowledge, or expertise in the subject matter embraced within this chapter.

e. Two members of the senate and two members of the house of representatives, serving as ex officio members. The legislative members of the board shall be appointed by the majority leader of the senate, after consultation with the president of the senate, and by the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader, and by the minority leader of the house of representatives. Legislative members shall receive compensation pursuant to section 2.12.

2. A public member shall not have a conflict of interest with the administrative contractor.

3. Members appointed by the governor and legislative members of the board shall serve two-year terms. The filling of positions reserved for the public representatives, vacancies, membership terms, payment of compensation and expenses, and removal of the members are governed by chapter 69. Members of the board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties. Public members of the board are also eligible to receive compensation as provided in section 7E.6. The members shall select a chairperson on an annual basis from among the membership of the board.

4. The board shall approve any contract entered into pursuant to this chapter. All contracts entered into pursuant to this chapter shall be made available to the public.

5. The department of human services shall act as support staff to the board.

6. The board may receive and accept grants, loans, or advances of funds from any person and may receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of the program.

7. The HAWK-I board shall do all of the following:

a. Develop the criteria to be included in a request for proposals for the selection of any administrative contractor for the program.

b. Define, in consultation with the department, the regions of the state for which plans are offered in a manner as to ensure access to services for all children participating in the program.

c. Approve the benefit package design, review the benefit package design on a periodic basis, and make necessary changes in the benefit design to reflect the results of the periodic reviews.

d. Develop, with the assistance of the department, an outreach plan for implementation by the administrative contractor, and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program or for other health insurance coverage or care programs, to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts shall include, but are not limited to, a comprehensive, statewide media campaign, solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing.

e. In consultation with the clinical advisory committee, select a single, nationally recognized functional health assessment form for an initial assessment of all eligible children participating in the program, establish a baseline for comparison purposes, and develop appropriate indicators to measure the health status of eligible children participating in the program.

f. Review, in consultation with the department, and take necessary steps to improve interaction between the program and other public and private programs which provide services to the population of eligible children. The board, in consultation with the department, shall also develop and implement a plan to improve the medical assistance program in coordination with the Hawk-I program, including but not limited to a provision to coordinate eligibility between the medical assistance program and the HAWK-I program, and to provide for common processes and procedures under both programs to reduce duplication and bureaucracy.

g. By January 1, annually, prepare, with the assistance of the department, and submit a report to the governor, the general assembly, and the council on human services, concerning the board's activities, findings, and recommendations.

h. Solicit input from the public regarding the program and related issues and services.

i. Perform periodic random reviews of enrollee applications to assure compliance with program eligibility and enrollment policies. Quality assurance reports shall be made based upon the data maintained by the administrative contractor.

j. Establish and consult with a clinical advisory committee to make recommendations to the board regarding the clinical aspects of the HAWK-I program.

k. Prescribe the elements to be included in a health improvement program plan required to be developed by a participating insurer. The elements shall include but are not limited to health maintenance and prevention and health risk assessment.

1. Establish an advisory committee to make recommendations to the board and to the general assembly on or before January 1, 1999, concerning the provision of health insurance coverage to children with special health care needs under the program. The committee shall include individuals with experience in, knowledge of, or expertise in this area. The recommendations shall address, but are not limited to, all of the following:

(1) The definition of the target population of children with special health care needs for the purposes of determining eligibility under the program.

(2) Eligibility options for and assessment of children with special health care needs for eligibility.

(3) Benefit options for children with special health care needs.

(4) Options for enrollment of children with special health care needs in and disenrollment of children with special health care needs from qualified child health plans utilizing a capitated fee form of payment.

(5) The appropriateness and quality of care for children with special health care needs.

(6) The coordination of health services provided for children with special health care needs under the program with services provided by other publicly funded programs.

8. The HAWK-I board, in consultation with the department of human services, shall adopt rules which address, but are not limited to addressing, all of the following:

a. Implementation and administration of the program.

b. The program application form. The form shall include a request for information regarding other health insurance coverage for each child.

c. Criteria for the selection of an administrative contractor for the program.

d. Qualifying standards for selecting participating insurers for the program.

e. The benefits to be included in a qualified child health plan which are those included in a benchmark or benchmark equivalent plan and which comply with Title XXI of the federal Social Security Act. Benefits covered shall include but are not limited to all of the following:

(1) Inpatient hospital services including medical, surgical, intensive care unit, mental health, and substance abuse services.

(2) Nursing care services including skilled nursing facility services.

(3) Outpatient hospital services including emergency room, surgery, lab, and x-ray services and other services.

(4) Physician services, including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits.

(5) Ambulance services.

(6) Physical therapy.

(7) Speech therapy.

(8) Durable medical equipment.

(9) Home health care.

(10) Hospice services.

(11) Prescription drugs.

(12) Dental services including preventive services.

(13) Medically necessary hearing services.

(14) Vision services including corrective lenses.

f. Standards for program eligibility. The standards shall not discriminate on the basis of diagnosis. Within a defined group of covered eligible children, the standards shall not cover children of higher income families without covering children of families with lower incomes. The standards shall not deny eligibility based on a child having a preexisting medical condition.

g. Presumptive eligibility criteria for the program.

h. The amount of any cost sharing under the program which shall be assessed on a sliding fee scale based on family income, which provides for a minimum amount of cost sharing, and which complies with federal law.

i. The reasons for disenrollment including, but not limited to, nonpayment of premiums, eligibility for medical assistance or other insurance coverage, admission to a public institution, relocation from the area, and change in income.

j. Conflict of interest provisions applicable to the administrative contractor and participating insurers, and between public members of the board and the administrative contractor and participating insurers.

k. Penalties for breach of contract or other violations of requirements or provisions under the program.

l. A mechanism for participating insurers to report any rebates received, to the department.

m. The reasons allowed for approval of an application in cases in which prior employer-sponsored coverage ended less than six months prior to the determination of eligibility for the HAWK-I program. The reasons established by rule shall include, but are not limited to, all of the following:

(1) Loss of employment due to factors other than voluntary termination.

(2) Death of a parent.

(3) Change in employment to a new employer that does not provide an option for dependent coverage.

(4) Change of address so that no employer-sponsored coverage is available.

(5) Discontinuation of health benefits to all employees of the applicant's employer.

(6) Expiration of the coverage periods established by the federal Consolidated Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-272, as amended.

(7) Self-employment.

(8) Termination of health benefits due to a long-term disability.

(9) Termination of dependent coverage due to an extreme economic hardship on the part of either the employee or the employer, as determined by rule.

(10) Substantial reduction in either lifetime medical benefits or benefit category available to an employee and dependents under an employer's health care plan.

If the board determines that the allowance of the six-month period from the time of dropping coverage to be eligible for participation in the HAWK-I program is insufficient to effectively deter applicants or employers of applicants from discontinuing employer-sponsored dependent care coverage for the purpose of participation in the HAWK-I program, the board may adopt rules to extend the time period to a period not to exceed twelve months.

n. The data to be maintained by the administrative contractor including data to be collected for the purposes of quality assurance reports.

Sec. 7. NEW SECTION. 514I.5 PARTICIPATING INSURERS.

Participating insurers shall meet the qualifying standards established by rule under this chapter and shall perform all of the following functions:

1. Provide plan cards and membership booklets to qualifying families.

2. Provide or reimburse accessible, quality medical services.

3. Submit a marketing plan to the HAWK-I board which is consistent with the board's outreach plan, for approval by the board.

4. Require that any plan provided by the participating insurer establishes and maintains a conflict management system that includes methods for both preventing and resolving disputes involving the health care needs of eligible children, and a process for resolution of such disputes.

5. Provide the administrative contractor with all of the following information pertaining to the participating insurer's plan:

a. A list of providers of medical services under the plan.

b. Information regarding plan rules relating to referrals to specialists.

- c. Information regarding the plan's conflict management system.
- d. Other information as directed by the board.
6. Submit a plan for a health improvement program to the department, for approval by the board.
7. Develop a plan for provider network development including criteria for access to pediatric subspecialty services.

Sec. 8. NEW SECTION. 514I.6 ADMINISTRATIVE CONTRACTOR.

1. An administrative contractor shall be selected by the HAWK-I board through a request for proposals process.
2. The administrative contractor shall do all of the following:
 - a. Perform outreach activities, based upon the outreach plan approved by the HAWK-I board, primarily through coordination with locally based outreach efforts, including but not limited to those associated with the educational system.
 - b. Determine individual eligibility for program enrollment based upon review of completed applications and supporting documentation. The administrative contractor shall not enroll a child who has group health coverage or any child who has dropped coverage in the previous six months, unless the coverage was involuntarily lost or unless the reason for dropping coverage is allowed by rule of the board.
 - c. Enroll qualifying children in the program with maintenance of a supporting eligibility file or database.
 - d. Forward names of children who appear to be eligible for medical assistance or other public health insurance coverage to local department of human services offices or other appropriate person or agency for follow up and retain the identifying data on children who are referred.
 - e. Monitor and assess the medical care provided through or by participating insurers as well as complaints and grievances.
 - f. Verify and forward to the department participating insurers' payment requests.
 - g. Develop and issue appropriate approval, denial, and cancellation notifications to inform applicants and enrollees of the status of the applicant's or enrollee's eligibility to participate in the program. Additionally, the administrative contractor shall process applications, including verifications and mailing of approvals and denials, within ten working days of receipt of the application, unless the application cannot be processed within this period for a reason that is beyond the control of the administrative contractor.
 - h. Create and maintain eligibility files that are compatible with the data system of the department including, but not limited to, data regarding beneficiaries, enrollment dates, disenrollments, and annual financial redeterminations.
 - i. Make program applications available through the mail and through local sites, as determined by the department, including, but not limited to, schools, local health departments, local department of human services offices, and other locations.
 - j. Provide electronic access to the administrative contractor's database to the department.
 - k. Provide periodic reports to the department for administrative oversight and monitoring of federal requirements.
 - l. Perform annual financial reviews of eligibility for each beneficiary.
 - m. Receive completed applications and verifications at a central location.
 - n. Collect and track monthly family premiums to assure that payments are current.
 - o. Notify each participating insurer of new program enrollees who are enrolled by the administrative contractor in that participating insurer's plan.
 - p. Verify the number of program enrollees with each participating insurer for determination of the amount of premiums to be paid to each participating insurer.
 - q. Maintain data for the purpose of quality assurance reports as required by rule of the board.

Sec. 9. NEW SECTION. 514I.7 ELIGIBLE CHILD.

1. Effective July 1, 1998, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible child under the age of nineteen whose family income does not exceed one hundred thirty-three percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

2. A child may participate in the HAWK-I program if the child meets all of the following criteria:

a. Is less than nineteen years of age.

b. Is a resident of this state.

c. Is a member of a family whose adjusted gross income does not exceed one hundred eighty-five percent of the federal poverty level, as defined in 42 U.S.C. § 9902(2), including any revision required by such section.

d. Is not eligible for medical assistance pursuant to chapter 249A.

e. Is not currently covered under or was not covered within the prior six months under a group health plan as defined in 42 U.S.C. § 300Ggg-91(a)(1) or other health benefit plan, unless the coverage was involuntarily lost or unless dropping the coverage is allowed by rule of the board.

f. Is not a member of a family that is eligible for health benefits coverage under a state health benefits plan on the basis of a family member's employment with a public agency in this state.

g. Is not an inmate of a public institution or a patient in an institution for mental diseases.

3. In accordance with the rules adopted by the board, a child may be determined to be presumptively eligible for the program pending a final eligibility determination. Following final determination of eligibility by the administrative contractor, a child shall be eligible for a twelve-month period. At the end of the twelve-month period, the administrative contractor shall conduct a review of the circumstances of the eligible child's family to establish eligibility and cost sharing for the subsequent twelve-month period.

4. Once an eligible child is enrolled in a plan, the eligible child shall remain enrolled in the plan unless a determination is made, according to criteria established by the board, that the eligible child should be allowed to enroll in another qualified child health plan or should be disenrolled. An enrollee may change plan enrollment once a year on the enrollee's anniversary date.

5. The board shall study and shall make recommendations to the governor and to the general assembly regarding the level of family income which is appropriate for application of the program, and the feasibility of allowing families with incomes above the level of eligibility for the program to purchase insurance for children through the program.

6. The board and the council on human services shall cooperate and seek appropriate coordination in administration of the program and the medical assistance program and shall develop a plan for a unified medical assistance and HAWK-I program system which includes the use of a single health insurance card by enrollees of either program.

Sec. 10. NEW SECTION. 514I.8 PROGRAM BENEFITS.

1. Until June 30, 1999, the benefits provided under the program shall be those benefits established by rule of the board and in compliance with Title XXI of the federal Social Security Act.

2. On or before June 30, 1999, the HAWK-I board shall adopt rules to amend the benefits package based upon review of the results of the initial benefits package used.

3. Subsequent to June 30, 1999, the HAWK-I board shall review the benefits package annually and shall determine additions to or deletions from the benefits package offered. The HAWK-I board shall submit the recommendations to the general assembly for any amendment to the benefits package.

4. Benefits, in addition to those required by rule, may be provided to eligible children by a participating insurer if the benefits are provided at no additional cost to the state.

Sec. 11. NEW SECTION. 514I.9 COST SHARING.

1. Cost sharing for eligible children whose family adjusted gross income is at or below one hundred fifty percent of the federal poverty level shall not exceed the standards permitted under 42 U.S.C. § 1396(o)(a)(3) or § 1396(o)(b)(1).

2. Cost sharing for eligible children whose family adjusted gross income is between one hundred fifty percent and one hundred eighty-five percent of the federal poverty level shall include a premium or copayment amount which is at least a minimum amount but which does not exceed five percent of the annual family adjusted gross income. The amount of the premium or the copayment amount shall be based on a sliding fee scale established by rule which is based on family adjusted gross income and the size of the family.

Sec. 12. APPOINTMENT OF MEMBERS OF THE HAWK-I BOARD. The members of the HAWK-I board shall be appointed within thirty days of enactment of this Act and may begin performing board duties prior to the beginning of the official commencement of the terms of the appointed board members as provided under this Act.

Sec. 13. OUTREACH. Notwithstanding any provision to the contrary, including section 8.33, any moneys remaining in the Iowa healthy kids trust fund pursuant to chapter 514H and any moneys remaining from grants, contributions, or other sources which were designated for the purposes of the healthy kids program shall be transferred to the department of human services and used to implement outreach activities for the HAWK-I program immediately upon enactment of this Act.

Sec. 14. EMERGENCY RULES. The department of human services may adopt emergency rules to implement changes in the medical assistance program by July 1, 1998, and the department of human services and the board may each adopt emergency rules only to the extent necessary to implement the HAWK-I program by January 1, 1999. Any rules adopted in accordance with this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 15. Chapter 514H is repealed.

Sec. 16. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 14, 1998

CHAPTER 1197

PROBATION PROCEDURES — SIXTH JUDICIAL DISTRICT

S.F. 2377

AN ACT relating to the sixth judicial district pilot probation revocation project and providing for effective dates and for repeal of the pilot project provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. Section 907.8A, subsection 1, Code Supplement 1997, is amended by striking the subsection and inserting in lieu thereof the following: